

TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS

MINUTES OF BOARD MEETING

JUNE 5, 2007

President Bob Foster called the meeting to order at 1:05 P.M. at the Marriott Cool Springs Hotel, 700 Cool Springs Boulevard, Franklin, Tennessee.

Board members present were Bob Foster, President, Wendy Hellum, Vice President, Dennis Hamilton, David Murphy, Steve Murphy and Ruthie Reynolds. Board member Ralph Buckner was absent.

Staff members present were Robert Gribble, Executive Director, Adrian Chick, Staff Attorney, and Sandra Cooper and Jimmy Gossett, Administrative Assistants.

APPROVAL OF MINUTES:

A motion was made by Mr. Steve Murphy to approve the minutes of the April 10, 2007 Board Meeting.

Seconded by Mr. David Murphy

Adopted by voice vote

Mr. David Murphy made a motion for Board President Bob Foster to contact Board member Ralph Buckner to inquire about his continued absences from board meetings and his intentions toward the Board and attendance at future meetings.

Seconded by Mr. Steve Murphy

Adopted by voice vote

ESTABLISHMENT APPLICATION:

**New Establishment
Minority Mortuary
Memphis, TN**

Ownership: Sole Proprietorship

Mr. David Murphy made a motion to take the application under advisement until the next board meeting.

Seconded by Mr. Steve Murphy

Adopted by voice vote

**LEGAL REPORT:
ADRIAN CHICK, STAFF ATTORNEY**

Complaint Review

1. Docket No. 12.21.094262A V.E. PARHAM AND SON FUNERAL HOME

A Final Order is submitted for the Board's review and approval. This matter was heard by the Board on April 10, 2007.

A motion was made by Mr. Steve Murphy to approve final order.

Seconded by Mr. David Murphy

Adopted by voice vote

2. Case No.: L06-FUN-RBS-2005042931

The Board authorized a Consent Order assessing a civil penalty of \$2,800 for twenty eight (28) instances in which the Respondent engaged in unlicensed practice at its March 14, 2006 meeting. After receiving no response from the Respondent, formal charges were filed on February 1, 2007. Shortly thereafter, a settlement was reached between the Respondent and legal in which the Respondent agreed to pay the original \$2,800 civil penalty in addition to \$275 for additional time expended by legal in initiating formal charges. The settlement is conditioned upon the Board's approval. The Respondent has submitted payment in the amount of \$3,075 along with an agreed order.

Recommendation: Legal recommends that the above settlement be approved by the Board.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

3. Case No.: L05-FUN-RBS-2005016871

This complaint was opened against the Respondent's funeral director license because the Respondent was charged with a criminal offense. However, the Respondent's license has since lapsed, no application for renewal has been

made, and there is no evidence that the Respondent has practiced as a funeral director since the complaint was opened.

Recommendation: Close.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

4. Case No.: L06-FUN-RBS-2006004181

This complaint was opened against the Respondent's funeral director license because the Respondent was charged with a criminal offense. However, the Respondent's license has since lapsed, no application for renewal has been made, and there is no evidence that the Respondent has practiced as a funeral director since the complaint was opened.

Recommendation: Close.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

5. Case No.: L06-FUN-RBS-2006027621

This Complaint was opened by staff following an inspection that revealed the Respondent was refusing to honor preneed funeral contracts unless an additional sum of money was paid. The Complaint alleged that this conduct constituted misrepresentation or fraud.

Recommendation: Close. The Respondent is now under control of a court-appointed receiver.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

6. Case No.: L06-FUN-RBS-2006027641

This Complaint was opened by staff following an inspection that revealed the Respondent was refusing to honor preneed funeral contracts unless an additional sum of money was paid. The Complaint alleged that this conduct constituted misrepresentation or fraud.

Recommendation: Close. The Respondent is now under control of a court-appointed receiver.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

7. Case No.: L06-FUN-RBS-2006027661

This Complaint was opened by staff following an inspection that revealed the Respondent was refusing to honor preneed funeral contracts unless an additional sum of money was paid. The Complaint alleged that this conduct constituted misrepresentation or fraud.

Recommendation: Close. The Respondent is now under control of a court-appointed receiver.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

8. Case No.: L07-FUN-RBS-2007049791

This Complaint was opened by staff following an inspection that revealed that the Respondent failed to properly issue receipts for human remains.

Recommendation: Close. The Respondent is now under control of a court-appointed receiver.

A motion was made by Ms. Wendy Helling to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

9. Case No.: L07-FUN-RBS-2007049781

This Complaint was opened following an inspection that revealed the current license of each funeral director was not available for inspection, the current embalmer license of each embalmer was not available for inspection, and the establishment lacked required information for the crematory used.

Recommendation: Close. The Respondent is now under control of a court-appointed receiver.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Wendy Hellum

Adopted by voice vote

10. Case No.: L06-FUN-RBS-2005045301

An inspection on December 20, 2005 revealed the following violations:

- Immediate burial and direct cremation prices do not match, display prices do not match casket price list, and mileage limits are not specified.
- Copies of cremation authorization forms were not maintained.

This complaint was previously presented on March 14, 2006 and the Board authorized a \$2,000 consent order.

Recommendation: Consent Order assessing a civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

11. Case No.: L07-FUN-RBS-2007048071

An inspection revealed the following violations:

- A casketed body lacked a permanent identification device.
- Business cards identify two unlicensed individuals as "Funeral Home Representatives" which may be misleading.
- Casket price list does not provide for alternative containers.

Recommendation: Consent Order assessing a civil penalty of \$250 and authorization for hearing. Letter of Caution regarding possible misleading advertising.

A motion was made by Ms. Ruthie Reynolds to accept Counsel's recommendation.

Seconded by Ms. Wendy Hellum

Adopted by voice vote

12. Case No.: L07-FUN-RBS-2007050161, 2007050181 and 2007050211

These complaints were filed against the establishment, the manager's funeral director license, and the manager's embalmer license for failure to pay a reinspection fee.

Recommendation: Consent Order assessing a civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

13. Case No.: L07-FUN-RBS-2007059771

The complaint alleges that the death certificate, filed by the Respondent, listed the wrong individual as informant. The matter has been reviewed by the State Registrar and Director of Vital Statistics who believes that the death certificate filed by the Respondent is correct and should not be changed without a court order.

Recommendation: Dismiss.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

14. Case No.: L07-FUN-RBS-2007061441

A nursing home, initially unable to contact the next of kin for a deceased resident, asked the Respondent to pick up the remains for temporary storage. The Respondent picked up the remains as requested. Later, when the Complainant funeral home contacted the Respondent to pick up the remains, the Respondent refused to release the remains unless a \$100 storage fee was requested. The Respondent later reduced its fee to \$50, then during a third telephone

conversation, finally agreed to release the remains to the Complainant without charge. During this third conversation, the Respondent stated, "them ni****rs never want to pay anything!"

The Respondent admits the above allegations and states that he was unaware that he could not refuse to release remains until a storage fee was paid. Respondent states that he is sincerely sorry for the comment and that he has also apologized personally to the Complainant.

Recommendation: Consent Order assessing a civil penalty of \$250 for unreasonably refusing to release a body, plus \$500 for unprofessional conduct (total civil penalty of \$750) and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Ms. Wendy Helling recused herself from participation in this case.

Adopted by voice vote

15. Case No.: L07-FUN-RBS-2007061411

An inspection revealed that the Respondent failed to retain copies of authorization for cremation forms. The general price list lacked required itemized prices and price ranges did not match those of the casket price list.

The Respondent submitted revised price lists.

Recommendation: Consent Order assessing a civil penalty of \$250 for failure to maintain copies of authorization forms, Letter of Warning for FTC violations, and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Wendy Helling

Adopted by voice vote

16. Case No.: L06-FUN-RBS-2006041231

This complaint for unlicensed practice was presented to the Board on February 13, 2007 and a consent order was authorized. No response has ever been received from the Respondent and certified mail is returned as "unclaimed". The establishment he worked for terminated his employment shortly after the

complaint was filed and there is no indication that the Respondent is any longer in the funeral profession.

Recommendation: Close, with right to re-open if the Respondent should apply for any future license.

A motion was made by Ms. Ruthie Reynolds to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

17. Case No.: L07-FUN-RBS-2007054551

The Respondent embalmer's license expired on December 31, 2006 and was not renewed until February 10, 2007. A late fee of \$200 was paid by Respondent. An inspection on February 13, 2007 revealed that Respondent had embalmed at least five (5) bodies during the period that his license was in expired status.

The Respondent states that he had not retrieved his mail, which included his renewal notice, due to a change in address and was thinking that his embalmer license expired in June along with his funeral director license.

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

18. CASE NO.: L07-FUN-RBS-2007054581

The Respondent embalmer's license expired on December 31, 2006 and was not renewed until February 10, 2007. A late fee of \$200 was paid by Respondent. An inspection on February 13, 2007 revealed that Respondent had embalmed at least five (5) bodies during the period that his license was in expired status. An inspection also revealed several caskets in the selection room that are inconsistent with the casket price list.

The Respondent has revised its casket price list.

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. Steve Murphy to assess a civil penalty of \$250 and authorization for a formal hearing.

Seconded by Mr. David Murphy

Adopted by voice vote

19. CASE NO.: L07-FUN-RBS-2007054401

An inspection on February 5, 2007 revealed the following FTC violations:

- A casket in the selection room is not listed on the casket price list.
- The prices of two caskets in the selection room do not match those on the casket price list.
- The general price list does not list individual prices for "other preparation of the body."
- Some statements of funeral goods and services listed an incorrect establishment name.

The Respondent has submitted revised price lists.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

20. CASE NO.: L07-FUN-RBS-2007054361

The Respondent is an out-of-state establishment not licensed in Tennessee. The Respondent conducted funeral services and graveside services in Tennessee.

The Respondent admits the above allegations.

Recommendation: Consent Order assessing civil penalty of \$500.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

Member(s) noted as voting to the contrary of the voice vote conclusion:

Ms. Wendy Hellum and Mr. Dennis Hamilton

21. CASE NO.: L07-FUN-RBS-2007054381

The Respondent is a Kentucky licensed funeral director and not licensed in Tennessee. The Respondent conducted funeral services and graveside services in Tennessee.

The Respondent admits the above allegations.

Recommendation: Letter of Warning.

A motion was made by Ms. Wendy Hellum to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

22. CASE NO.: L07-FUN-RBS-2007054261

An inspection on February 7, 2007 revealed a casketed body that lacked a permanent identification device.

The Respondent admits the above violation.

Complaint History: Two previous complaints, both closed, unrelated in nature.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

23. CASE NO.: L07-FUN-RBS-2007054431

An inspection on February 13, 2007 revealed a casketed body that lacked a permanent identification device.

The Respondent admits the above violation.

Complaint History: None.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.
Seconded by Mr. David Murphy

Adopted by voice vote

24. CASE NO.: L07-FUN-RBS-2007054241

The Respondent is a licensed funeral director in Tennessee. At the time of this incident, the Respondent anticipated the opening of an establishment in Tennessee but had not yet done so. The Respondent published an advertisement for its future establishment that stated, "Opening soon to Serve All of Western Tennessee".

The Respondent admits the above allegations.

Complaint History: None.

Recommendation: Letter of Warning. The advertisement might constitute an offer to engage in the operation of a funeral establishment, and if so, would violate Tenn. Code Ann. § 62-5-303(b) because the establishment was not licensed.

A motion was made by Ms. Wendy Helling to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

25. CASE NO.: L06-FUN-RBS-2006032581

The Respondent funeral director submitted an application for renewal which included the response "N/A" to the question inquiring about criminal convictions. The application was approved and the renewed license was mailed to the Respondent. After the license was returned by the post office, a staff member called and was informed that the Respondent was incarcerated.

The Respondent states that the incarceration was due to a domestic dispute that was later dismissed and expunged from his record.

Previous Action: This matter was presented to the Board on December 12, 2006 and the Board voted to postpone this matter until additional information was obtained regarding a possible criminal conviction. Subsequent inquiries to the Gibson County Circuit Court, Gibson County General Sessions Court, and the

Humboldt city court do not reveal that the Respondent provided false information on his application for renewal.

Complaint History: 2005041 – Closed with Letter of Warning; 200104098 – Closed with referral

Recommendation: Dismiss.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

26. CASE NO.: L06-FUN-RBS-2006043971

This Complaint against the Respondent's funeral director license originated after a consumer complained that he had not received copies of two preneed insurance policies he had purchased through the Respondent funeral director. Burial Services then conducted an examination that found that insurance premiums on preneed insurance contracts were not being submitted to the insurance company in a timely manner. An investigation took place which revealed that the insurance policies had been properly written and the payments had been forwarded to the insurance company, although not in a timely manner.

The Respondent stated that insurance premiums were typically deposited to an account and then a single check would be sent to the insurance company representing all the individual payments.

Complaint History: One previous complaint (closed).

Recommendation: Letter of Warning regarding the prompt submission of payments to the insurance company.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

27. CASE NO.: L06-FUN-RBS-2006043961

This Complaint against the Respondent's embalmer license originated after a consumer complained that he had not received copies of two preneed insurance policies he had purchased through the Respondent funeral director. Burial Services then conducted an examination that found that insurance premiums on

preneed insurance contracts were not being submitted to the insurance company in a timely manner. An investigation took place which revealed that the insurance policies had been properly written and the payments had been forwarded to the insurance company, although not in a timely manner.

The Respondent stated that insurance premiums were typically deposited to an account and then a single check would be sent to the insurance company representing all the individual payments.

Complaint History: One previous complaint (closed).

Recommendation: Letter of Warning regarding the prompt submission of payments to the insurance company.

A motion was made by Ms. Ruthie Reynolds to accept Counsel's recommendation.

Seconded by Ms. Wendy Hellum

Adopted by voice vote

28. CASE NO.: L06-FUN-RBS-2006040851

This Complaint alleges that the Respondent violated numerous statutes and committed numerous torts against the Complainant by sending bodies to a crematory in 2001 which was later discovered to have not properly disposed of the bodies. This matter has been previously litigated and did not reveal that the Respondent violated funeral statutes in effect at the time of the incidents.

Recommendation: Dismiss. This matter has previously been adjudicated by a state trial court.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

29. CASE NO.: L07-FUN-RBS-2007049841

An inspection was conducted on April 7, 2006 and a re-inspection was conducted on April 12, 2006. On May 5, 2006, the Respondent was sent notice that a fee of \$200 was due for the re-inspection. On October 20, 2006, the Respondent was sent a second notice that the \$200 re-inspection fee was still due and that a disciplinary action would be initiated if the fee was not paid.

No response has been received.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

30. CASE NO.: L07-FUN-RBS-2007049861

An inspection was conducted on April 7, 2006 and a re-inspection was conducted on April 12, 2006. On May 5, 2006, the Respondent was sent notice that a fee of \$200 was due for the re-inspection. On October 20, 2006, the Respondent was sent a second notice that the \$200 re-inspection fee was still due and that a disciplinary action would be initiated if the fee was not paid.

No response has been received.

Recommendation: Close on payment of civil penalty in 2007049841. Authorization for hearing if payment is not received within 30 days of receipt of consent order.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

31. CASE NO.: L06-FUN-RBS-2006034131

Two cases were opened against the Respondent due to the fact that the funeral director in charge had allowed his license to expire and the Board had not been notified of a change in the funeral director in charge. The cases were presented to the Board on November 14, 2006 and a consent order assessing a civil penalty of \$500 was authorized in each case. The Respondent has paid the other consent order and this case should be closed.

Recommendation: Close.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

32. CASE NO.: L06-FUN-RBS-2006045221

This complaint alleges that the Respondent “crematory” has developed an inappropriate stench and that neighbors can smell the cremation.

The Respondent states that there is no crematory on site and denies it has caused an odor.

Recommendation: Dismiss. An inspection was conducted the day prior to the complaint being filed and no violations were found.

A motion was made by Mr. David Murphy to accept Counsel’s recommendation.

Seconded by Ms. Wendy Helling

Adopted by voice vote

33. CASE NO.: L07-FUN-RBS-2007059261

This complaint alleges that the Respondent, a funeral director in charge of an establishment, forged the medical examiner’s signature on a certificate of death. The body was originally received by the Respondent with a certificate of death, signed by the medical examiner. The Respondent, when attempting to enter his required information on the certificate of death, misaligned the certificate in the printer, causing the information to be printed in the wrong spaces. To remedy the situation, the Respondent printed a second certificate of death and signed the medical examiner’s signature in the appropriate box. The original certificate noted the cause of death as “pending”. Following are the additional changes that were made on the certificate:

- The original was signed by the embalmer, but the forged certificate contained only the printed name of the embalmer;
- The original indicated that an autopsy was performed, but the forged certificate did not;
- The original indicated that autopsy finding were available prior to completion of cause of death, but the forged certificate did not;
- The original indicated the manner of death as “pending”, but the forged certificate made no indication.

The Respondent admits the above allegations and states, “I sincerely regret this action and consider it very bad judgment.”

Recommendation: Consent Order assessing civil penalty of \$1000 and voluntary suspension of funeral director’s license for thirty (30) days for immoral or unprofessional conduct, and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

34. CASE NO.: L07-FUN-RBS-2007058811

This complaint is based upon the same incident as 2007059261, but is filed against the establishment that employed the respondent funeral director.

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

35. CASE NO.: L07-FUN-RBS-2007060651

Following an inspection on April 24, 2007, the Respondent establishment received a notice of violation for the following:

- The current license of a funeral director was not available for inspection.
- The current license of an embalmer was not available for inspection.
- Two caskets offered for sale are not listed on the casket price list.

The Respondent has revised the casket price list and provided copies of the current funeral director and embalmer license.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

36. CASE NO.: L07-FUN-RBS-2007047711

This complaint alleges that the Respondent establishment refused to honor a preneed funeral contract

The beneficiary died prior to the total face value being paid and, as stated in the contract, a portion of the face value was paid.

Recommendation: Dismiss. The alleged facts and documents do not establish a violation of funeral laws.

A motion was made by Ms. Wendy Helling to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

37. CASE NO.: L07-FUN-RBS-2007056021

An inspection on March 27, 2007 revealed the following violations:

- Statement of funeral goods and services contained duplicate charges.
- Charges for merchandise and services were not shown on all statements.
- Prices of five caskets on display did not match the casket price list.
- Latest inspection report and copy of license of crematory was not available.

The Respondent is working on revised price lists.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

38. CASE NO.: L07-FUN-RBS-2007056101

This complaint does not allege any violation of statute by the Respondent, but suggests to the Board that when a policy pays an amount greater than the cost of services, the excess should be refunded to the beneficiary's family.

The complainant was not entitled to a refund.

Recommendation: Dismiss.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Ms. Wendy Helling

Adopted by voice vote

39. CASE NO.: L07-FUN-RBS-2007056341

An inspection on March 20, 2007 revealed that the respondent did not maintain a copy of the license and latest inspection report of the crematory it used. Additionally four of five cremation authorization forms did not contain written disclosures to the authorizing agent as required by statute.

The respondent admits the violations and states the required documentation has been obtained and forms will be completed correctly in the future.

Complaint History: One closed (FTC violation).

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Ms. Ruthie Reynolds to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

40. CASE NO.: L07-FUN-RBS-2007056331

An inspection on March 7, 2007 revealed the following violations:

- The general price list does not provide price of cardboard containers.
- Three caskets in the selection room are not listed on the casket price list.
- Latest inspection report and copy of license of crematory was not available.
- The license of an embalmer was not present for inspection.

The respondent admits the allegations and apologizes.

Complaint History: 950990 – unprofessional conduct (closed); 200003503 – closed with reference to Burial Services.

Recommendation: Consent Order assessing civil penalty of \$300 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

41. CASE NO.: L07-FUN-RBS-2007056311

An inspection on March 5, 2007 revealed the following violations:

- The general price list does not contain price for cardboard containers.
- Casket prices on the casket price list don't match the general price list.
- A casket contained on the casket price list is not offered for sale.
- The license of an embalmer was not present for inspection.
- The license of two funeral directors was not present for inspection.

No response has been received.

Complaint History: 951387 – practice by unregistered person (closed); 200207525 – advertising (closed).

Recommendation: Consent Order assessing civil penalty of \$300 and authorization

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

42. CASE NO.: L07-FUN-RBS-2007053761

This complaint alleges that the respondent is falsely advertising as "locally owned and operated" because the Secretary of State lists the principal address to be in Texas.

The Respondent maintains that it is locally owned and operated.

Complaint History: None.

Recommendation: Dismiss. The conduct complained of does not establish violation of funeral statutes.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Dennis Hamilton

Adopted by voice vote

43. CASE NO.: L07-FUN-RBS-2007055701

This complaint alleges that the respondent, a licensed funeral director, submitted a false date of birth, false social security number, and false information regarding prior felony convictions on an application for funeral director license.

No response has been requested or received.

Complaint History: None.

Recommendation: Consent Order for the voluntary revocation of his funeral director license and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

44. CASE NO.: L07-FUN-RBS-2007054251

An inspection on February 13, 2007 revealed the following violations:

- The general price list failed to include "shelter of remains" in basic services.
- The price range for immediate burial did not match actual offerings.
- The casket price list did not match actual offerings.
- Statement of funeral goods and services didn't provide reason for embalming.
- The floor of the restroom for public use is partially collapsed.
- A foul odor is present in the establishment due to unsanitary conditions in the preparation room.

The Respondent has revised its price lists, made necessary repairs, and arranged for the future maintenance of the establishment.

Complaint History: 200600692 (use of unregistered name) - Closed.

Recommendation: Consent Order assessing civil penalty of \$250 and authorization for hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Ruthie Reynolds

Adopted by voice vote

PETITIONS FOR RECONSIDERATION:

Staff Attorney Adrian Chick requested the Board to appoint a member to hear **Petitions for Reconsideration** of final orders under Tennessee Code Annotated § 4-5-317.

A motion was made by Mr. David Murphy to accept legal counsel's recommendation and appoint the President of the Board to grant or deny petitions for reconsideration of final orders.

Seconded by Ms. Wendy Hellum

Adopted by voice vote

ADMINISTRATIVE MATTERS:

ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR

Executive Director Gribble informed the Board of an act to amend Tennessee Code Annotated, Title 62, Chapter 5, Part 3, relative to the licensure of funeral directors, embalmers and establishments. The effective date of the new law is January 1, 2008.

**REPORT OF LICENSES APPROVED BY EXECUTIVE DIRECTOR
APRIL 10, 2007 THROUGH JUNE 4, 2007**

Establishments

**Neal-Tarpley Funeral Home
1510 Madison Street
Clarksville, TN**

Change of Location

Individuals

**Ronnie M. Crabtree
Nashville, TN**

Funeral Director

**Marshall D. Eley
Cordova, TN**

Funeral Director

**Kenneth Ray Haney
Cookeville, TN**

Funeral Director

**Tonya Michelle Woosley
Knoxville, TN**

Funeral Director

**Justin Chad Yarnell
Townsend, TN**

Funeral Director

**John Beal Imes
Murray, KY**

**Funeral Director
Reciprocity – Kentucky**

**Jeffery Keith Conder
Parsons, TN**

Embalmer

**Mary Katherine Evans
Gallatin, TN**

Funeral Director & Embalmer

**Andrea Quanae Franklin
Robinsville, MS**

Funeral Director & Embalmer

**Dustin Marko Gilliam
Sewanee, TN**

Funeral Director & Embalmer

**Patrick Alan Hendry, II
Chattanooga, TN**

Funeral Director & Embalmer

**Jordan Fitzgerald Barnes
Fulton, KY**

**Funeral Director & Embalmer
Reciprocity – Kentucky**

**Kevin Lee McDowd
Harrison, TN**

**Funeral Director & Embalmer
Reciprocity – Indiana**

**Douglas Allen Rabold, Jr.
Mosheim, TN**

**Funeral Director & Embalmer
Reciprocity – Texas**

CLOSED ESTABLISHMENT REPORT FOR JUNE 5, 2007 BOARD MEETING:

One establishment has closed since the last Board meeting:

- **McCarty Mortuary, 4004 Holston Drive, Knoxville, TN 37914-0160**

Disciplinary Action Report for June 5, 2007 Board Meeting:

The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents. The Executive Director requests the Board's acceptance of the following consent orders.

Complaint No. 2006043801

Violation: Failure to provide cremation authorization with required disclosures to authorizing agent

Action: \$250 Civil Penalty

Complaint No. 2006030351

Violation: Funeral director serving as manager of the establishment had allowed his licenses as a funeral director and embalmer to expire

Action: \$500 Civil Penalty

Complaint No. 2007049761

Violation: FTC price violations and failure to maintain a copy of current license and last inspection report for the crematory that the funeral home uses

Action: \$500 Civil Penalty

Complaint No. 2006044661

Violation: FTC price violations and incorrect data on establishment web site

Action: \$250 Civil Penalty

Complaint No. 2007049651

Violation: Conducting services in Tennessee without a Tennessee licensed funeral director present and in charge of services

Action: \$500 Civil Penalty

Complaint No. 2006045761

Violation: FTC price violations

Action: \$250 Civil Penalty

Complaint No. 2007048091

Violation: FTC price violations

Action: \$250 Civil Penalty

Complaint No. 2006043811

Violation: Failure to have neither a General Price List, Casket Price List nor Outer Burial Container Price List available for inspection

Action: \$750 Civil Penalty

Complaint No. 2007049821

Violation: Published an advertisement implying licensure as a funeral director

Action: \$250 Civil Penalty

A motion was made by Mr. Steve Murphy to approve the Executive Director's request for the Board's acceptance of the above consent orders.

Seconded by Mr. David Murphy

Adopted by voice vote

Open Complaint Report:

As of June 4, 2007, there were 106 open complaints.

ADJOURN:

A motion was made by Mr. David Murphy to adjourn.

Seconded by Mr. Steve Murphy

Adopted by voice vote

There being no further business, the meeting was adjourned at 2:25 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director